

# Fordham Urban Law Journal

Volume 34 | Number 4

Article 6

2007

## Re-Conceptualizing Poverty Law Clinical Curriculum And Legal Services Practice: The Need For Generalists

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### Recommended Citation

JoNel Newman, *Re-Conceptualizing Poverty Law Clinical Curriculum And Legal Services Practice: The Need For Generalists*, 34 Fordham Urb. L.J. 1303 (2007).

Available at: <https://ir.lawnet.fordham.edu/ulj/vol34/iss4/6>

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# Re-Conceptualizing Poverty Law Clinical Curriculum And Legal Services Practice: The Need For Generalists

## **Cover Page Footnote**

I wish to thank Martha Mahoney, Elizabeth Cooper, and the members of the Fordham Urban Law Journal for the opportunity to present this piece. I am also grateful to other law school colleagues who have discussed these ideas with me, including Kele Williams, Bernie Perlmutter, Anthony Alfieri, Terry Anderson, Jennifer Zawid, Sarah Calli, and research assistants David Fuchs and Christina Liu. Thanks also to the 2006 AALS Clinical Conference where I was able to present some of these ideas as a work in progress.

# RE-CONCEPTUALIZING POVERTY LAW CLINICAL CURRICULUM AND LEGAL SERVICES PRACTICE: THE NEED FOR GENERALISTS

*JoNel Newman\**

— *legal education sharpens the mind by narrowing it.*<sup>1</sup>

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## INTRODUCTION

We are all familiar with the now romantic-seeming, “Lincolnesque” vision of the generalist lawyer, the trusted counselor who knows you and your family, who drafts your will, defends your teenager in criminal court, and files and tries your breach of contract case.<sup>2</sup> We are also conditioned to believe that the existence of such a lawyer is relegated to the past and that any lawyer

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\* Assistant Professor of Clinical Education, University of Miami School of Law. I wish to thank Martha Mahoney, Elizabeth Cooper, and the members of the Fordham Urban Law Journal for the opportunity to present this piece. I am also grateful to other law school colleagues who have discussed these ideas with me, including Kele Williams, Bernie Perlmutter, Anthony Alfieri, Terry Anderson, Jennifer Zawid, Sarah Calli, and research assistants David Fuchs and Christina Liu. Thanks also to the 2006 AALS Clinical Conference where I was able to present some of these ideas as a work in progress. This Essay is dedicated to the first group of Student Directors of the University of Miami School of Law’s Community Health Rights Education Clinic—Aracely Alicea-Clark, David Cook, McLean Jordan, Jennifer Kennedy, and Sarah O’Dea, whose thoughtful commitment to the work of our Clinic and its clients have provided me with a constant source of admiration and inspiration.

1. Erwin N. Griswold, *Intellect and Spirit*, 81 HARV. L. REV. 292, 299 (1967).

2. Like many of his colleagues at the bar, Lincoln was a general practice attorney and represented clients in a variety of civil and criminal actions including debt, slander, divorce, dower and partition, mortgage foreclosure, and murder.

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whose practice conforms to this model is inefficient, ignorant, and likely guilty of malpractice.<sup>3</sup> There are many reasons for the prevailing view. The trend toward specialization has been well-documented, and is pervasive.<sup>4</sup> Many of us live and work in an environment that is always electronically connected. As a result our clients and we expect instantaneous answers and advice on complex legal matters. Many of us live in large metropolitan areas with correspondingly large national and international law firms whose personnel and even firm identities are in constant flux. There is no trusted solo practitioner down the street or around the corner in this environment, nor could such a lawyer provide us with the immediate answers or information on a specialized topic that we have come to expect.<sup>5</sup> This change has not only affected lawyers and clients in a business setting; it also has infiltrated the pro-

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[Nor did his legal career] consist solely of litigation. He maintained an office practice that included writing deeds, registering land, paying taxes, receiving money, and giving legal advice.

John A. Lupton, *Abraham Lincoln, Attorney at Law*, in *FROM COURTROOM TO CLASSROOM: THE LINCOLN LEGAL PAPERS CURRICULUM* 5, 7 (Dennis E. Suttles & Daniel W. Stowell eds., 2002).

3. In an article chronicling the rise of specialization in the private bar, Michael Ariens traces the legal ethics argument in favor of specialization to the 1950s:

[The call] for increased professionalism in law included claims of the necessity of legal specialization. . . . One aspect of this new argument was that the explosive growth in complexity of law, particularly federal law, ethically (or professionally) required lawyers to place limits on their practices. Instead of claiming knowledge of all of law, true professionals limited their practices to areas in which they were expert.

Michael Ariens, *Know the Law: A History of Legal Specialization*, 45 S.C. L. REV. 1003, 1008-09 (1994).

4. *See generally id.* Many state bar associations encourage lawyer specialization by formally recognizing lawyers who specialize. The Florida Bar confers "Board Certification" upon attorneys in twenty-two areas of specialization, with the following endorsement: "Certification is the highest level of recognition given by The Florida Bar for competency and experience within an area of law." The Florida Bar, Professional Practice—Certification Index, <http://www.floridabar.org/tfb/flabarwe.nsf> (follow "Professional Practice" hyperlink on left; then select "Certification") (last visited Mar. 29, 2007). The State Bar of California has created the California Board of Legal Specialization, whose duties include administering a legal specialization program and promoting the program to attorneys and consumers. *See* California Board of Legal Specialization Homepage, [http://calbar.ca.gov/state/calbar/calbar\\_generic.jsp?cid=11584&id=9189](http://calbar.ca.gov/state/calbar/calbar_generic.jsp?cid=11584&id=9189) (last visited Mar. 29, 2007). Ariens reports that by the end of 1990, fifteen states had adopted lawyer specialization plans. Ariens, *supra* note 3, at 1059.

5. "The trends of urbanization and specialization long since have moved the typical practice of law from its small-town setting." *Bates v. State Bar of Arizona*, 433 U.S. 350, 375 n.30 (1977).

vision of legal services to the poor, and our ideas about clinical legal education.<sup>6</sup>

This Essay discusses how the legal profession and clinical legal education became so specialized. The Essay argues that specialization hurts impoverished clients, and argues for greater recognition of the value of poverty law “generalists.” Finally, this Essay identifies several models for the provision of more general poverty law services and discusses the use of an exemplary model in a law school clinic.

### THE SPECIALIZATION OF POVERTY LAW

Poverty law is not a specialized field. Rather, as described by Antoinette Sedillo Lopez, it is a “shorthand for the myriad areas of law that affect poor people.”<sup>7</sup> Excluding the criminal justice system, those myriad legal fields include the areas of public benefits, housing, estate and guardianships, family, bankruptcy, consumer, employment, small business, and in increasingly larger parts of the nation, immigration.<sup>8</sup> Each of these broad categories can have multiple potential areas for sub-specialization. For example, the category of family law for poverty lawyers often includes domestic violence, child guardianships, child support, adoption, divorce, child abuse and neglect, foster care, and the termination of parental rights.<sup>9</sup> A daunting list, even for experienced lawyers? Abso-

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6. When Jerome Frank asked the question in the last century, “Why not a clinical lawyer-school?”, the vast majority of lawyers were general practitioners. Jerome Frank, *Why Not a Clinical Lawyer-School?*, 81 U. PA. L. REV. 907 (1933). Frank’s premise, that law students could provide legal services to the poor much like medical school teaching hospitals provide medical care to the poor, reflects a generalist orientation. Frank characterizes the work of his proposed law school clinic thusly: “The professional work they would do would include virtually every kind of service rendered by law offices.” *Id.* at 918.

7. Antoinette Sedillo Lopez, *Learning Through Service in a Clinical Setting: The Effect of Specialization on Social Justice and Skills Training*, 7 CLINICAL L. REV. 307, 308 n.3 (2001).

8. The LawHelp website for New York advertises the availability of free legal services in the following subject areas: Housing, Family & Juvenile, Immigration/Immigrants, Education, Disability, Life Planning, Seniors, Public Benefits, Consumer, Workers Rights, Health, Taxes, and Individual Rights. LawHelp/NY Home Page, <http://www.lawhelp.org/NY/> (last visited Mar. 29, 2007).

9. *Id.* The 2003-2004 Annual Report of the Legal Services Corporation (“LSC”) assigns cases handled by LSC grantees into the following broad categories: Family, Housing, Income/Benefits, Consumer, Health, Employment, Individual Rights, Juvenile, Education, and “Other.” LEGAL SERVICES CORP., 2003-2004 ANNUAL REPORT 8, available at <http://www.lsc.gov/about/pdfs/AnnualReport2003-2004.pdf>. The category “Other” refers to, inter alia, “incorporation, tribal law, wills/estates, licenses, etc.” *Id.*

lutely. And that is why lawyers and legal offices serving poor clients have increasingly specialized and narrowed the scope of the legal services they provide.<sup>10</sup>

In some instances, entire organizations providing legal services to impoverished clients specialize in only one area of law.<sup>11</sup> Other

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10. There is another strain of real or perceived “specialization” in poverty law—at least as it is conceived by legal services lawyers and commentators. This specialization distinguishes between advocates who represent individual clients and those who focus on what is variously called strategic litigation, impact advocacy, or law reform. See F. William McCaughy, *Individual Representation Versus Law Reform: A False Dichotomy*, in LEGAL SERVICES FOR THE POOR 85, 86-87 (Douglas J. Besharov ed., 1990); Marc Feldman, *Political Lessons: Legal Services for the Poor*, 83 GEO. L.J. 1529, 1537-38 (1995).

An almost universally accepted and cherished idea in law practice for the poor is the dichotomy between service and impact. Service cases, undertaken for individual clients, are deemed routine. They respond to the immediate problems of specific clients who present themselves at a program’s offices seeking assistance.

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Impact cases, on the other hand, are viewed as significant and special. These rare cases seek to advance the interests of a number of poor persons by “reforming” some widespread practice or abuse.

Feldman, *supra*, at 1537-38 (footnotes omitted).

There may be yet a third variation on these models of poverty lawyering—a community-based model which is the outgrowth of criticisms of the impact model as too removed from poor communities and the service model as inadequate to eliminate poverty and disrespectful of individual clients. See Anthony V. Alfieri, *Disabled Clients, Disabling Lawyers*, 43 HASTINGS L.J. 769, 775 (1992); Raymond H. Brescia, Robin Golden & Robert A. Solomon, *Who’s in Charge, Anyway? A Proposal for Community-Based Legal Services*, 25 FORDHAM URB. L.J. 831, 855 (1998) (“While a service model is centered around the representation of distinct, individual clients in discrete legal disputes, the community-based model, as its name suggests, starts from the fictional presupposition that the community itself is the client.”); Gerald P. López, *Reconceiving Civil Rights Practice: Seven Weeks in the Life of a Rebellious Collaboration*, 77 GEO. L.J. 1603, 1608 (1989); Paul R. Tremblay, *Rebellious Lawyering, Regnant Lawyering, and Street-Level Bureaucracy*, 43 HASTINGS L.J. 947, 950 (1992) (“[R]ebellious lawyering constitutes a justifiable, justice-based allocation of resources away from clients’ short-term needs and in favor of a community’s long-term needs.”). But see Matthew Diller, *Poverty Lawyering in the Golden Age*, 93 MICH. L. REV. 1401, 1424-32 (1995) (arguing that more traditional poverty law methodologies are effective, and that multiple delivery models are useful).

Whatever the relative merits of these different service delivery methodologies, a discussion of them is beyond the scope of this Essay. This Essay focuses on the representation of what are typically individual clients—work which constitutes the bulk of poverty law practice. See Feldman, *supra*, at 1535 (“Service work constitutes the bulk of [legal services lawyers’] effort . . .”).

11. The Florida Bar Foundation, which administers the state’s Interest on Trust Accounts program, awards grants for the provision of legal services to the poor to thirty different organizations throughout the state. Among those organizations are offices providing legal services in a single area of specialization, such as the Florida Immigrant Advocacy Center and the Guardianship Program of Dade County. THE

large legal services organizations have compartmentalized their services, dividing themselves into specialized practice groups that resemble those of large law firms.<sup>12</sup> The Legal Aid Foundation of Los Angeles, California's largest and oldest legal services provider, boasts eight specialized "units" of practicing attorneys and staff.<sup>13</sup> Wisconsin's largest low income legal services provider, Legal Action of Wisconsin, Inc., has five separate specialized units.<sup>14</sup> Greater Boston Legal Services' website states, "Our staff of 68 attorneys and 27 paralegals is divided into areas of legal expertise to best address the problems faced by people living in poverty."<sup>15</sup>

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FLORIDA BAR FOUNDATION, ANNUAL REPORT 2005/2006 9, available at [http://72.32.40.104/user\\_files/5961279894549fc96469f5.pdf](http://72.32.40.104/user_files/5961279894549fc96469f5.pdf).

The comparable grant-making institution in California, the Legal Services Trust Fund Program of the State Bar of California, awards grants to over 100 organizations, including specialty offices providing services restricted to housing, disability rights, domestic violence, and immigration. The State Bar of California, Legal Aid Grant Recipients List, [http://calbar.ca.gov/state/calbar/calbar\\_home\\_generic.jsp?cid=10102](http://calbar.ca.gov/state/calbar/calbar_home_generic.jsp?cid=10102) (follow "Legal Aid Grants" hyperlink on left; then follow "Grant Recipients" hyperlink) (last visited Apr. 2, 2007).

The District of Columbia Bar Foundation, administering the District of Columbia Interest on Lawyers' Trust Accounts Program, provides funding for direct legal services to the poor to organizations that practice solely in the areas of domestic violence, immigration, and community development and small business. District of Columbia Bar Foundation, Grantees, <http://www.dcbfoundation.org/grantees.html> (last visited Apr. 2, 2007).

12. "Most large law firms compartmentalize lawyers in departments where attorneys only practice in a narrow field, while other law firms practice exclusively in one field." Johannes P. Burlin, *Lawyer Certification and Model Rule 7.4: Why We Should Permit Advertising of Specialty Certifications*, 5 GEO. J. LEGAL ETHICS 939, 945 (1992). The website of Baker & McKenzie, one of the world's largest law firms, advertises fifteen separate practice groups (Antitrust & Trade, Banking & Finance, Corporate, Dispute Resolution, Employment, Insurance, Intellectual Property, International/Commercial, IT/Communications, Major Projects & Project Finance, Pharmaceuticals & Healthcare, Real Estate, Construction, Environment & Tourism, and Tax), all with concomitant sub-specialties. See Baker & McKenzie, *Our Practice*, <http://www.bakernet.com/BakerNet/Practice/default.htm> (last visited Apr. 2, 2007).

13. The units are: Bankruptcy, Community Economic Development, Consumer Law, Employment Law, Family Law, Government Benefits, Housing, and Immigration. See Legal Aid Foundation of Los Angeles, Client Services, <http://lafla.org/clientservices/index.asp> (last visited Apr. 2, 2007). Each of these units is separately staffed with its own Directing Attorney. Legal Aid Foundation of Los Angeles, Key Staff, <http://lafla.org/about/staff/index.asp> (last visited Apr. 2, 2007).

14. The specialized units are Family, Housing, Education, Public Benefits/Health, and Jobs/Economic Development. The office also has two specific populations to which services are targeted—senior citizens and migrant farmworkers. Legal Action of Wisconsin, Inc.—Legal Services, <http://www.legalaction.org/legalservices.htm> (last visited Apr. 2, 2007).

15. Greater Boston Legal Services Home Page, <http://www.gbls.org/> (last visited Apr. 2, 2007). Greater Boston Legal Services ("GBLS") staff work in the following "specialized units": Employment, Family Law, Health & Disability, Medicare Advocacy, Housing, Immigration, and Welfare Law. Greater Boston Legal Services—

The federal Legal Services Corporation (“LSC”) has expressed concern that “small [legal assistance] programs often lack the resources necessary to develop . . . appropriate specialization,”<sup>16</sup> indicating that large programs with multiple specialized departments will have an advantage in future funding decisions. LSC has also encouraged reliance on a practice of “referrals” to other agencies by providers of legal services to the poor.<sup>17</sup>

Law school clinics, and clinical legal education practices, have followed this trend. Sedillo Lopez remarks that when she began clinical teaching in 1986, “clinicians seemed to teach in either civil or criminal settings, with a few brave souls doing both. The Association of American Law Schools (“AALS”) brochure for the 2000 Clinical Conference lists 16 specialties and a catch-all category ‘Preferred subject not listed.’”<sup>18</sup> The AALS brochure for the 2007 Clinical Conference lists twenty-two specialties as well as the “Preferred Subject Matter Not Listed” category.<sup>19</sup> Harvard Law School advertises fourteen separate clinics, many involving specialty practices such as Gender Violence, Negotiation, and Immigration and Refugee.<sup>20</sup> Its program is not unique. Most law schools with significant clinical offerings include clinics specialized by subject-matter.<sup>21</sup>

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Types of Service, <http://www.gbls.org/service.htm> (last visited Apr. 2, 2007). In addition, GBLS conducts outreach and provides assistance to two specialized populations—the elderly and Asians. *Id.*

16. Letter from John A. Tull, Vice President for Programs, Legal Servs. Corp., to all LSC Program Directors 9 (Feb. 12, 1998) (LSC Program Letter 98-1) (on file with author).

17. “People come to legal aid offices with a wide range of problems, some of them falling within the scope of the program’s priorities and others that do not. Referring people to other organizations that can help them is a crucial service that most legal aid programs provide.” LEGAL SERVS. CORP., STATUS REPORT: THE LSC MATTERS REPORTING SYSTEM 5 (Aug. 8, 2002) (on file with author). In a six month period in 2001, LSC grantees referred out over half a million “matters” to a variety of places—other legal aid organizations, the private bar, social service agencies, etc. *Id.* at 6.

18. Sedillo Lopez, *supra* note 7, at 308 (footnotes omitted).

19. Ass’n of Am. Law Schs., Workshop on Clinical Legal Education, May 2-6, 2007, Registration Form (on file with author).

20. The clinics listed are: Cyberlaw Clinic at the Berkman Center for Internet and Society, Child Advocacy Program, Criminal Justice Institute (Criminal Defense), Criminal Prosecution, Death Penalty Clinic, Environmental Law Clinic, Gender Violence, Government Lawyer Clinic, Hale and Dorr Legal Services Center, Harvard Immigration and Refugee Clinic, Harvard Legal Aid Bureau, Human Rights Program, Negotiation Clinic, and Supreme Court Clinic. Harvard Law School Clinics & Pro Bono Programs—Clinics, <http://www.law.harvard.edu/academics/clinical/clinics.htm> (last visited Apr. 2, 2007).

21. For example, among New York University School of Law’s clinical programs are employment and housing discrimination, immigration, and juvenile delinquency.

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The arguments in favor of specialization are many. Michael Ariens has noted that the move toward specialization in the private practice of law over the last century, once seen as only for elitist corporate lawyers, began to gain momentum in the organized bar when the concepts of specialization and professional competence were linked.<sup>22</sup> Concerns about professional competence continue to dominate much of the discussion about legal specialization.<sup>23</sup> Specialization also assists lawyers in marketing their services,<sup>24</sup> and increases efficiency in service delivery.<sup>25</sup>

In a legal aid setting, specialization serves additional important purposes—it permits the highly efficient delivery of discrete services to much larger numbers of clients than could reasonably be served by a general practice model designed to address all the clients' legal needs. Because LSC and other funders of legal assistance to the poor often place a premium on the total number of

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NYU School of Law—Clinics, <http://www.law.nyu.edu/clinics/year/index.html> (last visited Apr. 2, 2007). The University of Michigan School of Law offers students clinical programs in community development and small business, as well as criminal appeals and mediation. See Univ. of Mich. Law Sch., Urban Communities Clinic, <http://www.law.umich.edu/CentersAndPrograms/clinical/ucc/> (last visited Apr. 2, 2007); Univ. of Mich. Law Sch., Centers and Programs, <http://www.law.umich.edu/CentersAndPrograms/clinical/index.htm> (last visited Apr. 2, 2007).

22. Ariens, *supra* note 3, at 1048 (“[P]roponents of specialization claimed that modern life (read ‘progress’) demanded that lawyers recognize that professional competence required them to limit their practices.”).

23. The ABA’s seminal MacCrate Report states, “changing law and new complexities have put an increasing premium on specialization to maintain competence and to keep abreast of subject matter.” ABA SECT. OF LEGAL EDUC. & PROF. DEV. & ADMISSION TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM 40 (1992) (Report of the Task Force on Law Schools and the Profession: Narrowing the Gap).

24. In 1990 the Supreme Court recognized the right of lawyers to advertise themselves as specialists in particular areas of law. *Peel v. Attorney Registration & Disciplinary Comm’n of Ill.*, 496 U.S. 91, 109-11 (1990).

25. ABA Ad Hoc Committee on Business Courts, *Business Courts: Towards a More Efficient Judiciary*, 52 BUS. LAW. 947, 948-49 (1997) (describing the increasing specialization of the bar as a dominant trend due to its efficiency in providing legal services in complex matters).

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clients served,<sup>26</sup> handling a large number of cases in a particular specialty can be very attractive to legal aid programs.<sup>27</sup>

Arguments in favor of specialization in law school clinics include all the above<sup>28</sup> and additional advantages for teachers and students alike. Sedillo Lopez notes that “specialization makes the teaching experience more predictable. It increases the comfort level of both students and teachers.”<sup>29</sup> Philip Schrag comments,

Specialization also enables most teachers to offer better supervision, because they themselves don’t have to spread their knowledge over several fields. Perhaps most important, specialization promotes clinic cohesion and educational sharing by enabling students to comment with some degree of expertise on each other’s cases, and by making each student’s case work potentially useful to every other student.<sup>30</sup>

With such obvious advantages, why re-enact the debate over lawyer specialization in the poverty law field? Because there are disadvantages to lawyer specialization, and it is my contention that those disadvantages fall more harshly on impoverished clients than on other consumers of legal services.

26. Deborah Rhode has observed that “[i]n a world of severe resource constraints, the LSC’s priority on increasing the number of individuals served gets in the way of full assistance to any single client.” Deborah Rhode, *Access to Justice: Connecting Principles to Practice*, 17 GEO. J. LEGAL ETHICS 369, 395 (2004); see also Brescia et al., *supra* note 10, at 835 (“Throughout the history of federal funding for legal services, local legal services lawyers have felt pressure to emphasize quantity above quality.”).

27. See Chip Gray, *Defining “Client-Centered” Legal Services* 3 (Feb. 21, 2001) (Conference Paper, LSC Conference on Creating Client-Centered State Justice Communities), available at [http://www.lri.lsc.gov/pdf/02/020070\\_gray.pdf](http://www.lri.lsc.gov/pdf/02/020070_gray.pdf) (“Preventing the work of Legal Services from becoming ‘funder-centered’ is a major challenge that pits the economic interest of a Legal Services program and its staff in pleasing funders against the interests of clients in appropriate representation.”).

28. Many law school clinics are funded, at least in part, by specific grants that require legal services to be targeted for a particular population or subject matter. See Philip G. Schrag, *Constructing a Clinic*, 3 CLINICAL L. REV. 175, 193 (1996) (identifying the requirements of “any clinic funding source” as an “extrinsic factor” affecting the decision of a law school clinic as to whether to specialize). Schrag and Sedillo Lopez both acknowledge the quality or competence arguments in favor of providing specialized legal services in a law school clinic. *Id.* at 191 (noting how, in deciding to specialize, clinical “teachers might choose depth over breadth”); Sedillo Lopez, *supra* note 7, at 309 (describing how in specialized law school clinics, “[t]here is a perception that the quality of representation is likely to be higher”).

29. Sedillo Lopez, *supra* note 7, at 309.

30. Schrag, *supra* note 28, at 191.

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### HOW SPECIALIZATION CHEATS IMPOVERISHED CLIENTS

As discussed above, legal specialization and the debate over its comparative merits have been with us for quite some time. As long ago as 1910, Woodrow Wilson lamented:

A new type of lawyer has been created; and that new type has come to be the prevailing type. Lawyers have been sucked into the maelstrom of the new business system of the country. That system is highly technical and highly specialized . . . [Lawyers] do not handle the general, miscellaneous interests of society. They are not general counselors of right and obligation.<sup>31</sup>

More recent commentators, including Anthony Kronman, former dean of the Yale Law School, have observed that by specializing, lawyers in large law firms lose familiarity with the client's total situation, decreasing the lawyer's ability to see a client's problems as a whole, rendering the lawyer's judgment thinner and more abstract.<sup>32</sup>

The complaints about the shortcomings of the lawyer-specialist from Wilson, Kronman, and others are echoed by clinical faculty. Lauren Carasik, writing about her experiences supervising Western New England College School of Law's Anti-Discrimination Clinic, states:

In this decontextualized approach, the students were circumscribed from identifying and providing comprehensive legal services. The clinic's specialization in one discrete aspect of law, primarily employment discrimination, precluded attention to legal problems that were often inextricably linked with the discrimination and that shared a nexus of facts. As noted earlier, any legal or employment issue that did not fit squarely into discrimination law was immaterial for the clinic students, as the clinic had neither the power nor the authority to seek redress. This constraint is antithetical to whole-client lawyering and cross-substantive representation, as the client's legal reality outside those matters relevant to the [employment discrimina-

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31. Woodrow Wilson, *The Lawyer and the Community*, Address to the American Bar Association, Chattanooga, Tenn. (Aug. 31, 1910), in 21 *THE PAPERS OF WOODROW WILSON*, at 69-70 (Arthur S. Link ed., 1976). For a more recent, but similar, lamentation, see ANTHONY KRONMAN, *THE LOST LAWYER* 2, 87 (1993) (discussing how lawyer specialization in private practice has taken away from the "lawyer-statesman ideal," who possesses broad "wisdom about human beings and their tangled affairs," and "a kind of skill or excellence at making judgments about the public good").

32. KRONMAN, *supra* note 31, at 283-291; see also Schrag, *supra* note 28, at 191 (noting that a law school clinic might choose to provide general legal services rather than to specialize "to help students draw connections, recognize common strands, or make distinctions among several types of legal practice").

tion] case was deemed inconsequential. Without fully grasping the backdrop in which legal problems arise, a myopic focus on one discrete legal issue can obscure other seemingly unrelated legal and non-legal issues that are critical to client-centered counseling in general, and the determination of an appropriate resolution tailored to the individual needs of a particular client more specifically.<sup>33</sup>

These authors remind us that in offering only specialized legal services lawyers lose something—basic lawyering and counseling skills that involve recognizing and connecting differing client needs and problems,<sup>34</sup> a sense of community,<sup>35</sup> and a sense of place in society.<sup>36</sup>

Clients lose, too, and poor clients lose the most. The most obvious loss for a client is an opportunity to have all her legal problems addressed in an integrated, or “holistic,” manner. This may prove an inconvenience for a client who is able to pay for legal services and must go to a different office or a different lawyer in the same office for a different service. For a client of very limited means, however, “[t]he local Legal Services program is usually the only option.”<sup>37</sup> This is especially true for the most marginalized and isolated poor clients.

The neighborhood legal services offices that were heralded in the 1960s as a source of community and client empowerment<sup>38</sup> have largely disappeared and have been replaced by large centralized downtown offices.<sup>39</sup> Impoverished persons who need legal services in urban areas<sup>40</sup> typically must present themselves to large central

33. Lauren Carasik, *Justice in the Balance: An Evaluation of One Clinic's Ability to Harmonize Teaching Practical Skills, Ethics and Professionalism with a Social Justice Mission*, 16 S. CAL. REV. L. & SOC. JUST. 23, 82-83 (2006).

34. See *infra* note 52 and accompanying text.

35. “In a move toward efficiency, [legal services] programs turned to increased specialization [in the 1980s], causing greater attorney isolation and separation from the client community.” Brescia et al., *supra* note 10, at 838.

36. See generally KRONMAN, *supra* note 31.

37. Feldman, *supra* note 10, at 1553; see also Tremblay, *supra* note 10, at 961 n.61 (“[Poverty lawyers] own a virtual, if not literal, monopoly on the services they offer to the qualifying public.”).

38. See, e.g., Note, *Neighborhood Law Offices: The New Wave in Legal Services for the Poor*, 80 HARV. L. REV. 805 (1967).

39. Edgar S. Cahn, *Reinventing Poverty Law*, 103 YALE L.J. 2133, 2146 n.46 (1994) (“[I]n city after city, we professionalized legal services offices by moving back downtown.”); Alan W. Houseman, *Civil Legal Assistance for the Twenty-First Century: Achieving Equal Justice for All*, 17 YALE L. & POL’Y REV. 369, 383 (1998) (“Many program offices have been centralized outside of low-income neighborhoods.”).

40. Access to legal services in rural areas is even more difficult. LEGAL SERVICES CORP., A REPORT ON RURAL ISSUES AND DELIVERY AND THE LSC-SPONSORED SYM-

offices in places that may be uncomfortable for them. One legal services attorney remarks that “the client who [successfully] navigates her way to a downtown Legal Services office often possesses leadership qualities, although she may not have had an opportunity to develop these skills.”<sup>41</sup> Another poverty lawyer describes the “staggering” efforts involved in a client’s “marshaling the fortitude and resources required to make a trip across town to confront a lawyer on strange turf.”<sup>42</sup> The accessibility (or lack thereof) of a poverty lawyer’s office operates as a kind of de facto client screening device. In the scenario created by poverty law’s retreat to downtown cosmopolitan offices, it is often only the most ambulatory and assertive clients who even make it to the next step in the screening process.

Assume that a prospective client actually arrives in a downtown legal services office seeking assistance, the prize the prospective client has now won is the opportunity to go through a bureaucratized “intake” process which often resembles that of the very social services bureaucracies that have created the problems for which the client is seeking legal assistance.<sup>43</sup> Legal services offices define a complicated set of priorities for case acceptance,<sup>44</sup> and “representation is limited to a narrow range of specialties . . . . Even within these different areas of representation, the attorney’s specialty drives the services provided.”<sup>45</sup> A “typical” intake process used by legal services programs has been described as consisting of five stages.<sup>46</sup> Prospective clients who do not present a problem that intake staff believe fits within the narrow range of specialization

POSIUM 9-11 (Apr. 2003), available at [http://www.lri.lsc.gov/pdf/03/RIDS\\_rprt042403.pdf](http://www.lri.lsc.gov/pdf/03/RIDS_rprt042403.pdf).

41. Ingrid V. Eagly, *Community Education: Creating a New Vision of Legal Services Practice*, 4 CLINICAL L. REV. 433, 453 (1998).

42. Leigh Goodmark, *Can Poverty Lawyers Play Well with Others? Including Legal Services in Integrated, School-Based Service Delivery Programs*, 4 GEO. J. ON FIGHTING POVERTY 243, 259 (1997).

43. Houseman, *supra* note 39, at 382-83.

44. For some critiques of this practice see Feldman, *supra* note 10, at 1537; see also Rhode, *supra* note 26, at 381 (“All of these issues of resource allocation require value judgments on which reasonable people can disagree . . . . The problems with such decision-making have not, however, escaped unnoticed. Critics from both the left and the right have demanded greater accountability to communities that have to live with the decisions.”).

45. Brescia et al., *supra* note 10, at 842. Some legal services offices do no intake at all in areas of law which fall outside of the expertise of staff. Charles Elsesser & JoNel Newman, *Encouraging Race-Based Advocacy in Legal Services Practice*, CLEARINGHOUSE REV., May-June 2002, at 80, 89 n.42.

46. See Wayne Moore, *Improving the Delivery of Legal Services for the Elderly: A Comprehensive Approach*, 41 EMORY L.J. 805, 836 (1992).

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(“priority”), do not make it past the first stage.<sup>47</sup> A prospective client is typically not seen by an attorney until at least the third stage,<sup>48</sup> and this may be only after a highly specialized intake staff has already narrowly defined the case.<sup>49</sup> Many prospective clients simply will not or can not run this gauntlet.

Assume that a prospective client arrives at a legal services office and makes it to stage three but no further—the client and her problem are referred to another office. This practice has been tacitly encouraged by LSC and other funders of legal services to the poor who permit the “referral” to serve as a successful case closing statistic.<sup>50</sup> The reality is that quite often clients never follow through with the referral and, if they do, they find that the promise of assistance at the next office is often illusory.<sup>51</sup>

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47. *Id.* “In the first stage, the [legal services provider] screens out ineligible clients and eligible clients who do not have priority legal problems.” *Id.*

48. *Id.*

The second stage involves the client interview process, usually conducted by paralegals, but occasionally by attorneys or volunteers. In the third stage, all case handlers (usually both attorneys and paralegals) meet to determine which cases from stage two should be accepted for representation and which should be referred elsewhere. In the fourth stage, attorneys and paralegals inform clients of the decisions made in stage three. Some programs have a fifth stage where the client is interviewed again by the assigned case handler.

*Id.* at 836-37.

49. Elsesser & Newman, *supra* note 45, at 89 (“When a narrow characterization of the client’s problem during the initial intake stages is combined with the routinization of advice giving . . . advocates easily can overlook clients with non-traditional claims.”).

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50. Robert Solomon relates the following example from his legal services practice:

One day, a client called, seeking housing. She said she had gone to the welfare department, which referred her to a local housing agency, which referred her to family services, which referred her to legal services. No one could help her. Nor could the author. It did, however, occur to him that the federal government would receive four forms, and identify four “cases.” In three of those cases, the client’s objective was achieved through successful information and referral. The client, however, still did not have a place to live. Any legal services worker can tell similar stories about LSC statistics.

Brescia et al., *supra* note 10, at 836.

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51. Curiously, for all its emphasis on forms and reporting statistics, LSC has no mechanism for tracking what actually happens to prospective clients “referred out” to other agencies. The closest LSC has ever come to making an honest assessment of this data was for a two-month period in 2005, when it sought data to document the vast numbers of poor people without access to legal services. During that period, LSC requested that providers actually categorize the cases they referred out as persons they were “unable to serve.” LEGAL SERVICES CORP., DOCUMENTING THE JUSTICE GAP IN AMERICA app. A (2005), available at <http://www.lsc.gov/JusticeGap.pdf> (observing that “[n]o program can ever be sure that another program will accept a case”).

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Finally, assume that a client has actually managed to present herself to the legal services office, has convinced the intake staff that she has a legal problem that fits within the program's priorities, such as an eviction defense, and that she sees an attorney who handles her eviction case. The client, however, also needs assistance with her child support case or she will be unable to pay her rent next month. Will her (eviction) attorney assist her? Almost certainly not.

Burdensome caseloads curtail the possibility of more broad-based work. Clients with multiple problems are unlikely to have all of their problems addressed by a single attorney. For example, consider a defense to an eviction proceeding. Many legal services' attorneys have developed a specialized knowledge of the substance and procedure of eviction defense and provide exceptional representation in such cases. At the same time, their knowledge in other areas is limited. If a lawyer becomes aware of benefits problems, another attorney with benefits expertise will handle such matters. If the apartment has lead paint, a third attorney might handle a special education problem for a lead-poisoned child, provided the legal services program provides assistance with special education issues. Any personal injury problem will be referred to the private bar.<sup>52</sup>

Indeed, specialization is so ubiquitous in the legal services community that "staff within a single program may not even know the entire scope of representation provided by the office,"<sup>53</sup> making it impossible or at least unlikely that a client will receive full service even in a large office with many specialty departments.

There are better models for providing legal services to poor people. Recent trends in legal services and in clinical legal scholarship emphasize client-centered, or holistic models for client representation and counseling, as well as community-based legal services.<sup>54</sup> An element missing from the forefront of these discussions is the

52. Brescia et al., *supra* note 10, at 844.

53. *Id.* at 845 n.65.

54. See, e.g., Letter from Randi Youells, Vice President for Programs, to all LSC Program Directors 4 (Dec. 13, 2000), available at [http://www.lsc.gov/program/pl/pl2000\\_7.pdf](http://www.lsc.gov/program/pl/pl2000_7.pdf) [hereinafter Program Letter 2000-7] (requiring legal services programs to consider and assess "to what extent has a comprehensive, integrated client-centered legal services delivery system been achieved in a particular state?"); see also, e.g., Michael Diamond, *Community Lawyering: Revisiting the Old Neighborhood*, 32 COLUM. HUM. RTS. L. REV. 67, 69-70 (2000); Katherine R. Kruse, *Fortress in the Sand: The Plural Values of Client-Centered Representation*, 12 CLINICAL L. REV. 369, 376-77 (2006); see generally López, *supra* note 10; Lucie E. White, *Collaborative Lawyering in the Field? On Mapping the Paths from Rhetoric to Practice*, 1 CLINICAL L. REV. 157 (1994).

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fact that the services provided in such a setting need to be generalist in nature.<sup>55</sup>

### COMMUNITY-BASED, CLIENT-CENTERED, AND HOLISTIC LEGAL SERVICES REQUIRE GENERALISTS

There is a growing call for poverty lawyers to provide their services through a community-based model, in collaboration with client-based organizations.<sup>56</sup> There is an equally insistent call for lawyers in general, and poverty lawyers in particular, to provide client-centered legal services.<sup>57</sup> Poverty lawyers are also urged to provide “holistic” services for their clients.<sup>58</sup>

55. Sedillo Lopez makes this argument:

The most obvious problem with limiting the subject matter of the representation is failure to provide full service quality legal work for poor people, leaving their myriad and multiple needs for legal services unmet. This is precisely how opponents to legal services have worked to achieve their objective—by limiting the subject matter of Legal Service Corporation supported legal aid programs.

Sedillo Lopez, *supra* note 7, at 317. The author has not been able to identify other discussions building on the case for generalized legal services in a law school clinic made in her article. R

56. Brescia et al., *supra* note 10, at 832 (“Legal services programs can improve the quality of their service by establishing community-based programs which emphasize closer links with community groups and community institutions.”); Cahn, *supra* note 39, at 2147 (arguing for incorporation of the client community as co-producers of legal services to the poor); Sedillo Lopez, *supra* note 7, at 311-12 (describing and arguing for a clinical law program designed to focus on a community and that seeks to serve the legal needs of that community without limitation on the subject matter of the representation). R

57. See generally Program Letter 2000-7, *supra* note 54; see also generally Kruse, *supra* note 54, at 369-70. “As a theory of lawyering, client-centered representation has enjoyed unparalleled success . . . . Indeed, the client-centered approach has so thoroughly permeated skills training and clinical legal education, it is not an exaggeration to say that client-centered representation is one of the most influential doctrines in legal education today.” Kruse, *supra* note 54, at 369-70 (discussing DAVID BINDER & SUSAN PRICE, *LEGAL INTERVIEWING AND COUNSELING: A CLIENT-CENTERED APPROACH* (1977)). But see Michelle S. Jacobs, *People from the Footnotes: The Missing Element in Client-Centered Counseling*, 27 GOLDEN GATE U. L. REV. 345, 348 (1997) (“[E]ven with the best of intentions, lawyers most concerned with preserving the autonomy of client decision-making have, by adopting the ‘client-centered’ model of counseling, continued to place the client, especially the client of color, out at the margin.”). R

58. E.g., Deborah J. Cantrell, *A Short History of Poverty Lawyers in the United States*, 5 LOY. J. PUB. INT. L. 11, 33-34 (2003). R

Under holistic lawyering, the lawyer views herself as part of a larger service group, all of whom hold the common goal of understanding the true nature of the client’s need and then crafting the best solution . . . . The holistic lawyer will look beyond the immediate legal problem [presented] to determine whether the client’s child is eligible for free health care insurance under Medicaid, whether there are other social services available to the cli-



Many of the most innovative models for the delivery of poverty law services that have emerged in the last decade have been legal offices or staff placed in non-legal settings, often a medical, special housing, or other facility where the population may be particularly vulnerable. As Deborah Rhode observes,

Offering multiple services in the same program or at the same location is often necessary to ensure that individuals get help, not simply referrals. 'One-stop shopping' is particularly critical for groups like elderly or disabled clients, mothers with small children, or full-time employees who cannot readily shuttle between multiple agencies.<sup>59</sup>

Advocates describing the effectiveness of their work with disadvantaged clients in social services settings attest to the desirability of offering one-stop shopping.<sup>60</sup> This service delivery model recognizes a simple truth—if a full range of legal services is not available to many impoverished clients in such a setting, they will go without legal assistance. The integrated setting also fosters collaboration and referrals between lawyers and other service providers. As Leigh Goodmark observes:

There is a vast difference between [a social service provider] spending the time to find a legal office that is open for intake and willing to see a low-income client and sending a client to the room next door, where a lawyer is ready and waiting. Physical proximity vastly increases the chances that service providers will take note of the issues that they cannot address, and that as a

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ent that might help her improve her level of income, and whether the family might be eligible for other government benefits such as food stamps.

*Id.*; see, e.g., Michael Pinard, *Broadening the Holistic Mindset: Incorporating Collateral Consequences and Reentry into Criminal Defense Lawyering*, 31 FORDHAM URB. L.J. 1067 (2004); Robin Steinberg, *Beyond Lawyering: How Holistic Representation Makes for Good Policy, Better Lawyers, and More Satisfied Clients*, 30 N.Y.U. REV. L. & SOC. CHANGE 625 (2006).

59. Rhode, *supra* note 26, at 394.

60. See, e.g., Jeffrey Selbin & Mark Del Monte, *A Waiting Room of Their Own: The Family Care Network as a Model for Providing Gender-Specific Legal Services to Women with HIV*, 5 DUKE J. GENDER L. & POL'Y 103, 123-24 (1998) (describing HIV-unit based legal services model); *Overcoming Barriers in Communities*, 29 FORDHAM URB. L.J. 159 (2001) (from *Revolutions Within Communities: The Fifth Annual Domestic Violence Conference*). Miricia Sanchez, director of the COBRA Intensive Care Management Program for Individuals with HIV/AIDS, describing a partnership between social workers and Harlem Legal Services to assist victims of domestic violence, said "[o]ne of the greatest things that came out of the partnership was 'one-stop shopping.'" *Overcoming Barriers in Communities, supra*, at 177.

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result, clients will get the services—all of the services—they need.<sup>61</sup>

Whether the object is to provide what one terms “community-based,” “holistic,” or “client-centered” legal services, advocates and clinicians must recognize that to do so effectively requires a willingness and capacity to be generalists. David Chavkin aptly notes that:

Despite the fact that most of us pay at least lip service to the goal of teaching our students to become client-centered lawyers, we design our clinics in the surest way to frustrate this goal. Subject-matter clinics essentially stamp on the client’s forehead the words “disability law case” or “civil rights law case” or “family law case.” . . .

By contrast, general practice clinics and clinics focused on particular populations provide at least the opportunity to reinforce for students the lessons of client-centered lawyering. No arbitrary limits based on type of client or type of legal problem are imposed on the scope of representation and no arbitrary limits are imposed on the creativity of students in fashioning solutions.<sup>62</sup>

Without the ability or willingness to address the varying needs of the client, or to engage in “general practice,” one-stop shopping and holistic services are impossible to achieve. This was a lesson that our law school clinic has learned from experience.

#### PROVIDING GENERAL LEGAL SERVICES—ONE CLINIC’S EXPERIENCE

The Community Health Rights Education Clinic (“CHRE”) at the University of Miami School of Law, where I teach, was modeled loosely on the hospital-based legal services project in Boston described by Gary Bellow and Jeanne Charn in their reply to Marc Feldman’s critique of legal services practice.<sup>63</sup> Rather than

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61. Goodmark, *supra* note 42, at 260; *see also* Martha Stone et al., *Center for Children’s Advocacy: Providing Holistic Legal Services to Children in Their Communities*, CLEARINGHOUSE REV., July-Aug. 2005, at 244.

62. David F. Chavkin, *Spinning Straw into Gold: Exploring the Legacy of Bellow & Moulton*, 10 CLINICAL L. REV. 245, 268 (2003).

63. Gary Bellow & Jeanne Charn, *Paths Not Yet Taken: Some Comments on Feldman’s Critique of Legal Services Practice*, 83 GEO. L.J. 1633, 1659-60 (1995). Bellow and Charn described the program as having been set up to address:

1) the large number of hospital patients who were not aware of, or were not receiving, public benefits and services for which they were eligible; 2) the difficulties of obtaining medical records and, more fundamentally, helpful letters from physicians in the representation of clients seeking SSI-Disability

being situated in a general care or pediatric unit of a hospital, CHRE set up shop in collaboration with the University of Miami Medical School/Jackson Memorial Hospital's Ryan White funded outpatient clinics for the impoverished HIV/AIDS-affected community in Miami-Dade County. CHRE law students conduct office hours on-site at these public health clinics four days a week. By far the largest of the clinics is the adult immunology unit run by the South Florida AIDS Network ("S-FAN"). There are almost 6,000 adult HIV-positive patients at S-FAN, the vast majority have no insurance, and the remainder rely primarily on Medicaid.<sup>64</sup> (Miami-Dade County has the third-highest serio-prevalence rate in the nation).<sup>65</sup> Most of S-FAN's patients are racial or ethnic minorities.<sup>66</sup> Many of them struggle with issues of substance dependence, domestic violence, homelessness, and sexual identity.<sup>67</sup> To say that these clients exist in isolation and on the margins, even among the poor and disenfranchised in our community, is an understatement.

When we began providing legal services to this population at the beginning of the 2005-2006 academic year, our model was simple. S-FAN sees all its patients at prescription renewal intervals, roughly once every quarter. The staff attempts to provide a continuum of care for the patients, including case and social workers who help patients manage various aspects of their lives and who refer clients for legal services.<sup>68</sup> The S-FAN clinic set up a small confer-

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and SSDI benefits; 3) the chronic inadequacy of advocacy resources available to help individuals and families dealing with the large number of welfare and social service agencies administering programs affecting them.

*Id.* at 1659.

64. Ryan White CARE Act Data Report for Miami-Dade County Public Health Trust (includes South Florida AIDS Network), May 6, 2004 [hereinafter Ryan White Data Report] (on file with author). The Report identifies 5,674 HIV-positive patients in the 2003-2004 reporting period. Over 3,700 of those patients had no insurance; 1,331 had Medicaid, and 274 had Medicare. *Id.* at 5. Approximately 5,000 of the patients had incomes equal to or below the Federal poverty line. *Id.* at 4.

65. Only Los Angeles and New York are higher. See CTR. FOR DISEASE CONTROL, HIV/AIDS SURVEILLANCE SUPPLEMENTAL REPORT: AIDS CASES, BY GEOGRAPHIC AREA OF RESIDENCE AND METROPOLITAN STATISTICAL AREA OF RESIDENCE tbl. 7 (2004), available at [http://www.cdc.gov/hiv/topics/surveillance/resources/reports/2006supp\\_vol12no2/pdf/HIVAIDS\\_SSR\\_Vol12\\_No2.pdf](http://www.cdc.gov/hiv/topics/surveillance/resources/reports/2006supp_vol12no2/pdf/HIVAIDS_SSR_Vol12_No2.pdf).

66. Sixty percent of the patients are reported as "Black or African-American"; thirty-four percent are reported as "Hispanic or Latino/a." Ryan White Data Report, *supra* note 64, at 4.

67. The Ryan White Data Report identifies as the targeted service population migrant workers, the homeless, injection and non-injection drug users, racial/ethnic minorities/communities of color, incarcerated persons, gay, lesbian, and bisexual adults. *Id.* at 2.

68. *Id.* at 6. Title I of the Ryan White CARE Act provides funding for two legal services providers who operate off-site to provide certain services, including perma-

ence room for us within their waiting room. We maintained regular office hours at S-FAN staffed by law students, and the case workers and social workers began referring clients to us. Since we had no caseload, we conducted an intake interview with everyone who came to our door, though my conception of CHRE was that we would limit our services to public benefits and permanency planning. I envisioned that the students would do public benefits eligibility screenings, advise clients how to obtain all the benefits for which they qualified (assisting them if necessary), counsel clients regarding permanency planning, and prepare needed documents such as pre-need guardianships, designated health care surrogates, wills, etc. I also envisioned that we would represent clients in Social Security disability matters. I thought that this combination of work would be ideal pedagogically to give students exposure to both formal representation roles in public benefits fair hearings and Social Security cases, and transactional and counseling practice with permanency planning matters. If prospective clients had other problems that did not fit into our areas of “specialization” or program priorities, we would refer them to other legal services providers. This was the norm among legal services offices, even though I knew it was likely that the clients might not receive help as a result of those referrals.<sup>69</sup>

My plans for specialized representation completely failed at the conclusion of our first client meeting. Because it was the first day, I accompanied the law students to S-FAN to conduct intake. Our first client, Mrs. Smith, as I will refer to her, was a frail elderly African-American woman. Mrs. Smith had worked for many years before becoming disabled by AIDS, and was already receiving Social Security Disability Income. The students checked to see if she and her household were receiving all the public benefits to which they might be entitled. They were. Would Mrs. Smith like them to draw up some permanency planning documents for her? Sure. But that was not what had caused her to schedule an appointment to see a lawyer. Something had been weighing on her conscience. In

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nency planning services. Ryan White Comprehensive AIDS Resources Emergency Act of 1990, Pub. L. No. 101-381, 104 Stat. 576 (codified at 42 U.S.C. §§ 300ff to 300ff-1); see Miami-Dade HIV/AIDS Partnership, Ryan White and General Revenue Service Providers, <http://www.aidsnet.org/main/mainpages/providers.html#legalmi> (last visited Apr. 2, 2007). Case workers at S-FAN dutifully refer patients to the two local Ryan White-funded legal services providers as well as our Clinic for legal assistance. For reasons discussed below, those who become our clients are not inclined to visit a legal services office outside of the treatment facility.

69. See *supra* notes 60-62 and accompanying text.

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a desire to make sure that her family would have adequate funds to pay for her funeral and burial expenses, Mrs. Smith had purchased a life insurance policy. She had seen a commercial on television and had called the number listed. The salesman had been pushy and had come to her house right away to close the deal. Mrs. Smith told us that he sat at her kitchen table and filled out the forms. According to Mrs. Smith, he had said, “You don’t smoke, do you?” and when she told him she did not, the salesman had proceeded to check “no” on a series of boxes concerned with health issues that would render the applicant ineligible for the insurance policy—including HIV—without asking any other questions.<sup>70</sup> Mrs. Smith had then purchased the policy and agreed to have a monthly premium withdrawn from her bank account to pay for the insurance. “Did I do wrong?” she asked us. “Can you help me fix it with the insurance company?”

The conclusion of that simple narrative on CHRE’s first day of operation at S-FAN presented a fork in the road. It is extraordinarily difficult to tell a client, particularly one who has waited for weeks to see the “lawyers” at the clinic, that her problems don’t conform to the clinic’s specialization.<sup>71</sup> Mrs. Smith had wanted this matter handled by lawyers already affiliated with her HIV clinic, so that she did not have to disclose her HIV-positive status to a “stranger” in a legal services office. Moreover, we didn’t yet have any clients. What was I going to tell the students to work on if we didn’t have any work to do? Lastly, I was not at all certain that if we referred Mrs. Smith to another legal services office that she would get representation. As discussed above, legal services offices typically do not take clients who do not present a problem within their set of priorities.<sup>72</sup> Also, of necessity, the offices triage cases, responding most effectively to emergencies such as a notice

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70. It was easy to believe that the salesman had genuinely assumed that the only question on the list relevant to Mrs. Smith was about smoking. A kindly and personable grandmother, she did not conform to the stereotypes of persons likely to die from HIV-related complications.

71. I had little experience with this type of conversation. Before joining the clinical faculty at the University of Miami School of Law in 2005, my practice had been primarily on the “impact” side of poverty law practice. I moved to Florida in 1996 for the specific purpose of litigating class actions and other law reform cases on behalf of impoverished clients that LSC funded legal services offices had been prohibited from pursuing by the 1996 Welfare Reform Act. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (codified as amended in scattered sections of 42 U.S.C.).

72. See *supra* notes 44-52 and accompanying text.

of eviction.<sup>73</sup> Did Mrs. Smith's problem fall under the current priorities at the local legal services offices? Even if it did, would she be able to describe it as such to the intake staff so that she would be able to advance in the process to see a lawyer? I didn't know; and it certainly wasn't an emergency. CHRE's first case on our first day at S-FAN thus became an insurance and consumer matter.<sup>74</sup>

Other cases and clients followed this general pattern. At the conclusion of the first academic year, well over half of CHRE's cases had fallen into the clinic's original "priorities"—public benefits, Social Security, and permanency planning. At the same time, we had also developed a robust practice in immigration, housing, family, and consumer law.<sup>75</sup>

#### ADVANTAGES AND CRITICISMS OF A "GENERALIST" CLINICAL MODEL

Ranked high among the advantages to providing general legal services to the clients in our clinic was our knowledge that the vast majority of the clients we saw would not travel to a legal services law office outside their treatment center and would go without needed services if we did not provide them. While this was undoubtedly an advantage to the clients, it also furthered the social justice mission of the clinic, as Sedillo Lopez has noted.<sup>76</sup>

But the model also has some serious drawbacks and criticisms. In addition to its admitted inefficiency,<sup>77</sup> it produces strain and anxiety for some of the students. Law students are continually challenged to provide services and answer questions outside of subject areas with which they are comfortable. Quite recently, I was excited to tell my students that a group of local probate court judges and practitioners had offered to provide our clinic with probate court forms and training. To my surprise, I faced a near-revolt. "What, we're going to probate court too, now?!" was the

73. Paul Tremblay describes this practice as the "rescue mission" of legal services. Tremblay, *supra* note 10, at 950.

74. After reviewing the policy and the applicable insurance law and regulations, as well as the in-home sales solicitation law in Florida, the students were able to resolve Mrs. Smith's problem to her satisfaction. She received a refund of all the premiums she had paid and the insurance company cancelled the policy. The students later completed a full set of permanency planning documents for Mrs. Smith.

75. UNIV. OF MIAMI SCH. OF LAW, CTR. FOR ETHICS & PUB. SERV., CLINIC REPORT 2005-2006, at 10-13 (2006) (on file with author) (summarizing work and accomplishments of CHRE).

76. Sedillo Lopez, *supra* note 7, at 307-08.

77. See *supra* note 3 and accompanying text.

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unhappy refrain. To me, this had seemed a logical extension of our clinic's work preparing wills and pre-need guardianships for clients. To my students, it was yet another new arena where they anticipated feeling inadequate and ill-prepared.<sup>78</sup> The same resistance has been observed among advocates in some legal services offices that announce plans to adopt a more generalist style of advocacy.<sup>79</sup>

Are there countervailing advantages that benefit or train the law students who will graduate from general practice clinics? What do they gain from such a challenging experience? The answer is that the law students gain immeasurably in self-confidence, and in the ability to "think outside the box" when confronted with a real client with a real need. In many ways this is indeed an ideal training for the real world. As Abraham Maslow said, "If the only tool you have is a hammer, you tend to see every problem as a nail."<sup>80</sup> In many ways, what general legal services clinics teach are the most fundamental of lawyering skills—problem identification and solution that is not prejudiced by some advance categorization of the client's legal problem. Instead of narrowing the client and the client's problem based on specialized knowledge, these students, and the lawyers they become, are conditioned to view the whole client as the problem, to think more broadly in examining the issues raised and not raised but implied by the client and the client's situation. They learn first hand the benefits of collaboration with clients, community service providers, and with each other—skills and practices worth learning and inculcating in our profession.

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78. Cf. Carasik, *supra* note 33, at 83 ("[T]he concept of generalization could careen down the slippery slope, obligating a clinic to address all the legal issues faced by one client. To some degree, this constraint is present in all clinics and routinely faced by lawyers in practice.").

79. See, e.g., Tom Perrotta, *Legal Aid Tests New Style of Advocacy in Harlem*, N.Y.L.J. Nov. 4, 2003, at 1. Perrotta reports that in response to announced plans to create a "full-service" firm for the poor utilizing an "integrated service model," many staff attorneys expressed trepidation or dismay:

This is the down side. In addition to all the things we typically have to do, now we are in the position of having to do additional work, to ask more questions. [Clients] could have a number of things going on, and they won't tell us. It's a very real thing because of our caseloads . . . . What's most troubling for people in the rank and file is, "Now we need to do more?"

*Id.*

Others rejected the concept on principle, stating "It's already hard enough to know everything you need to know about criminal law. To me, this is a fundamental change in the way the public defender office works." *Id.*

80. Quoteworld.org, <http://www.quoteworld.org/quotes/8742> (last visited May 2, 2007).

**CONCLUSION**

Specialized law school clinics, like specialized law offices, have a place in legal education and the community. It is incumbent on educators and poverty lawyers, however, not to lose sight of the important community values and rich teaching opportunities of general legal services clinics and practices, and to incorporate them in the curriculum.